

Healthcare Information Division

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FINAL STATEMENT OF REASONS**I. UPDATE**

On April 6, 2007, the Office of Statewide Health Planning and Development (OSHPD) gave notice of its proposed regulations, Sections 96000 through 96050 of Title 22 of the California Code of Regulations, related to collecting hospital discount payment policies, charity care policies, eligibility procedures for those policies, review processes, and application forms for charity care and discounted payment programs. The proposed regulations identify specific electronic file formats of the above documents and method of submission of electronic files.

OSHPD made nonsubstantive changes to the name of the internet reporting application and web site address. Specifically, the name of the internet reporting application was changed from "California Charity Care Collection" to "System for Fair Price Hospital Reporting" and the web site address was changed from "<https://4c.oshpd.ca.gov/>" to "<https://syfphr.oshpd.ca.gov/>". The changes do not materially alter rights or responsibilities of hospitals that must submit hospital discount payment policies, charity care policies, eligibility procedures for those policies, review processes, and application forms for charity care and discounted payment programs because the internet reporting application has not been developed by OSHPD yet. OSHPD will notify hospitals of the correct internet reporting application name and web site address before the reporting effective date, January 1, 2008.

II. ADMINISTRATIVE REQUIREMENTS, SPECIFIC PURPOSES, AND RATIONALE

(See Initial Statement of Reasons, Rulemaking File Item 9.)

III. STUDIES, REPORTS, OR DOCUMENTS RELIED UPON IN PROPOSING AMENDMENTS

There were no additional data, studies, or reports which OSHPD has relied upon (see Rulemaking File Item 11 for documents relied upon in proposing amendments).



IV. LOCAL MANDATE DETERMINATION

Since the proposed regulations will impose requirements upon all California hospitals defined by California Health and Safety Code Section 1250 in subdivisions (a), (b), and (f), and will only incidentally affect governmental hospitals, there is no local mandate created by the proposed revisions which would require state reimbursement.

V. ALTERNATIVES CONSIDERED

OSHPD has determined that there are no available alternatives which would be more effective in carrying out the purpose for which the action is proposed or less burdensome to affected private persons or businesses than the proposed action.

VI. RESPONSE TO PUBLIC COMMENTS

During the public comment period, OSHPD received a letter containing two comments and an e-mail containing one comment. Comments are listed below, followed by OSHPD's responses to each:

1. Letter dated May 14, 2007 from Barbara Hewitt Jones, Jones Research & Consulting representing Tenet Healthcare Corporation:

Tenet requested that proposed Section 96042 be amended to include Portable Document Format (.pdf) in addition to the Microsoft Word (.doc) format expressing concerns that hospital "policy and procedures should be maintained in a non-manipulative form. The .pdf file also allows for scanning hard copy documents for submission, if the electronic version is not maintained by the department fulfilling the reporting requirements."

OSHPD Response:

We recognize concerns about maintaining the policies and procedures in a non-manipulative form. OSHPD will convert the submitted Microsoft Word files to Portable Document Format (.pdf) format before they're made available to the public. The Microsoft Word files will only be accessible to OSHPD staff. We need the Word format to allow us to comply with legal requirements concerning information accessibility to those with impaired sight. Our electronic conversion process will allow the visually impaired to "read" the policies using assistive devices. A hard copy document scanned to a Portable Document Format (.pdf) file is not readable with these devices. OSHPD is therefore not amending Section 96042.

If a hospital has a hardship with submitting its policies and procedures as a Microsoft Word (.doc) file, the hospital may request a reporting modification in accordance with proposed Section 96050, which OSHPD will consider on a case-by-case basis.

2. Letter dated May 14, 2007 from Barbara Hewitt Jones, Jones Research & Consulting representing Tenet Healthcare Corporation:

In proposed Section 96044, "The use of the term 'significant change' is vague and not defined in Section 96040 "Definitions." Tenet recommends defining 'significant change' as: *any change that materially affects the rights of patients who qualify for benefits pursuant to California Health and Safety Code Article 3, Section 127400 to 127446.*

We understand that section 127435 is a cross reference to the section under which OSHPD has authority to act in the collection of the required reports; however, sections 127400-127446, rather than section 127435, sets forth the population that is intended to be protected under AB 774."

OSHPD Response:

OSHPD identifies a significant change in proposed Section 96044 by stating, "The significance of the change shall be evaluated from the perspective of the anticipated impact on the population intended to benefit from California Health and Safety Code Section 127435."

The commentor's suggested change introduces the vague term "material." The change also incorrectly limits the definition of significant change to include only "patients who qualify for benefits." However, OSHPD perceives that a larger population benefits from AB 774, including patients' family members and uninsured responsible persons. For example, if a hospital's original discount payment policy provided a discount to patients with incomes at or below 500 percent of the Federal Poverty Level and the hospital changes the policy to reduce the level to 400 percent of the Federal Poverty Level, our definition more closely follows the law by requiring the hospital to submit their new policy to OSHPD as a significant change, since there is a significant impact on the amount a patient or the patient's family will pay.

The reference to California Health and Safety Code Section 127435 is appropriate. It relates to the policies, procedures, and forms that must be submitted to OSHPD for public availability, and those policies, procedures, and forms must comply with California Health and Safety Code Section 127400 through Section 127446. OSHPD therefore declines to change proposed Section 96044.

3. E-mail dated May 29, 2007 from Jen Flory, Western Center on Law and Poverty:

"As to the proposed comments, we ask that OSHPD add a definition to the term 'charity care' to distinguish it from how charity care is used in reporting hospital financial information. In AB 774, charity care refers to free care, whereas in reporting hospital financial information, charity care is any discount off the full charges that a hospital provides to someone who is unable to afford the cost of care. There is clearly a difference between 'discount payment policies' and 'charity care' in

AB 774, evidenced by the fact that only for charity care may a hospital look at a patient's assets. To read this as just a discount, would not distinguish it from discount payment policies."

OSHDP Response:

Hospital financial reporting and hospital charity care and discount payment policies reporting are related and not mutually exclusive. Therefore, it is not necessary to define the term "charity care" to distinguish it from how charity care is used in reporting hospital financial information. OSHDP has defined "charity care" in the Accounting and Reporting Manual for California Hospitals, Second Edition which is incorporated by reference into Section 97018 of Title 22 of the California Code of Regulations. OSHDP intends to consistently apply that definition as it relates to hospitals reporting charity care because the policies that AB 774 requires hospitals to file with OSHDP are the foundation for hospitals to account and report charity care deductions from revenue on the hospital annual financial disclosure reports and quarterly financial and utilization reports that hospitals must submit to OSHDP.

Charity care is based on the hospital's written policy which identifies criteria for determining a patient's ability to pay. AB 774 does not preclude hospitals from providing partial charity care. Charity care may be full charity care (free care) or partial charity care (discounted), each with its own set of eligibility criteria in a hospital's policy. If the hospital's discount payment policy identifies financial criteria for partial charity care that is consistent with the Federal Poverty Level prescribed by AB 774, then the amount that the patient is determined to be unable to pay is properly classified as charity care, and the amount the patient is expected to pay is the discount payment. The hospital's charity care policy for partial charity care is the discount payment policy identified in AB 774.